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IN THE

United States Supreme Court

October Term, 1975

No. 75-498

WILLIAM B. DAWSON, III,
Petitioner,

v.

THE FLORIDA BAR,
Respondent.

BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

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Petitioner seeks the issuance of a writ of certiorari to review a decision of the Supreme Court of Florida disbarring him from the practice of law.

Jurisdiction

The petition for certiorari asserts that this Court has jurisdiction under 28 U.S.C., §1257(3), which gives the Court jurisdiction to review by writ of certiorari decisions rendered by the highest court of a state if "any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of . . . the United States."

Under this section, it is settled that the Court does not have jurisdiction unless the federal questions to be considered

were properly raised in the state proceedings. This prerequisite to jurisdiction is implicit in Rule 23(1)(f), which requires a petition for certiorari to specify the stage in the state court proceedings both in the court of first instance and in the appellate court, at which and the manner in which the federal questions sought to be reviewed were raised.

The petition for certiorari ignores this requirement, and for good reason. Except for the issue raised by Question 5, none of the issues embodied in the questions stated in the petition for certiorari were raised or considered in the proceedings below. Under the circumstances, it is respectfully submitted that the Court does not have jurisdiction to consider the first four questions stated in the petition.

Question Presented

Inasmuch as the Supreme Court does not have jurisdiction to review the first four questions raised in the petition for certiorari, the only question presented by the petition which the Court has jurisdiction to consider is whether petitioner was entitled to a jury trial in the disciplinary proceedings that resulted in his disbarment.

Argument

Petitioner has cited no authority to support his contentions that in a disciplinary proceeding an attorney has a constitutional right to a trial by jury. Indeed, the only authority he has cited is *Ex Parte Wall*, 107 U.S. 265 (1883) which is a direct holding to the contrary. Nor has petitioner come forward with any reasons why this decision should be overruled or why the existing practice of not using juries in disciplinary cases should be changed. In short, on this issue there is nothing in the petition which requires an answer. The issue is so lacking in merit that further argument would simply burden the Court.

Respectfully submitted,

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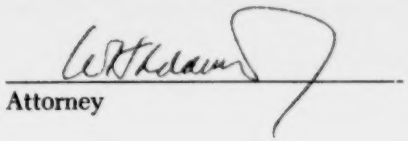
Attorney for The Florida Bar

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Brief in Opposition to Petition for Certiorari has been furnished to Gerald R. Hart, 333 East Bay Street, Jacksonville, Florida 32202, by United States Mail this 2 day of October, 1975.



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